

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1609 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1-5 No

DAYABHAI RAJABHAI PATEL

Versus

KARMAN RAVJI PATEL

Appearance:

MR SURESH M SHAH for Petitioner

MR YS LAKHANI for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 17/04/98

ORAL JUDGEMENT

This revision application runs into 3 paragraphs. The say of the petitioner in paragraph 1 is that the revision is preferred against the order passed by the Deputy Collector in Revision Application under Section 23(2) of the Mamlatdars' Courts Act. The second para also says that the order is passed in revision on 17.9.1997 and he challenges the order passed by the Collector in revision. In para 3 the say of the

petitioner is that the order passed in revision be set aside. However, the petitioner has subsequently amended the petition and introduced the ground that the Deputy Collector had no jurisdiction to entertain the appeal.

Mr. Shah read before me the order of the Collector to show that in fact he has dealt with the revision filed before him as if it was an appeal. In the operative portion of the impugned order the Collector has used the word "appeal." Sub-section (1) of Section 23 of the Mamlatdar Courts Act prohibits appeal from order passed under the Mamlatdars' Courts Act. Sub-section (2) of Section 23 empowers the Collector to revise Mamlatdar's proceedings. The Collector decided the matter in exercise of power under Section 23(2) of the Mamlatdars' Courts Act. Thus it cannot be said that the Collector decided the revision as appeal simply because he has used the word "appeal" at one place. The fact remains that the petition before the Collector was filed as revision and it was entertained as revision. This court has taken the view in number of cases that a revision under Section 115 of C.P.C. against the order passed in revision under the Mamlatdars' Courts Act is not maintainable. In view of this, this revision application is not entertained and the same is accordingly rejected. It is submitted by the learned counsel that status quo granted may be allowed to continue for four weeks. The prayer is just and granted. The status quo shall be maintained for a period of four weeks from today.

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